



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,041	10/06/2003	Warner Cockerille	IGT1P052C1/P-55CON	5272
79646 7590 12/10/2008 Weaver Austin Villeneuve & Sampson LLP - IGT Attn: IGT P.O. Box 70250 Oakland, CA 94612-0250			EXAMINER ZEE, EDWARD	
			ART UNIT 2435	PAPER NUMBER
			MAIL DATE 12/10/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/680,041	Applicant(s) COCKERILLE ET AL.	
	Examiner EDWARD ZEE	Art Unit 2435	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-33,35-43,45-54,56-64,66-69 and 71 is/are pending in the application.
- 4a) Of the above claim(s) 41-43,45-47,62-64,66-68 and 71 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27,29,30,35-40,48,50,51 and 56-61 is/are allowed.
- 6) ☒ Claim(s) 28,31-33,49,52-54 and 69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/25/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the election to restriction filed on August 25th, 2008. Claims 27-33, 35-43, 45-54, 56-64, 66-69 and 71 are pending and have been considered below.

Election/Restrictions

2. Applicant's election **without** traverse of Group I, *Claims 27-33, 35-40, 48-61 and 69*, in the reply filed on August 25th, 2008 is acknowledged.

3. Claims 41-43, 45-47, 62-64, 66-68 and 71 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 28, 31-33, 49 and 52-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 28 and 49 recite the limitations "the selected first gaming software program" and "the gaming software program" throughout these claims. There is insufficient antecedent basis for this limitation in the claim.

7. Claims 31-33 and 52-54 recite the limitation "the second portion of executable code" throughout these claims. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2435

8. Due to the number of existing antecedent basis issues, Applicant's cooperation is requested in correcting any other issues of which applicant may become aware of throughout the pending claims.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 69 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 69 is directed towards an apparatus comprising of various means. According to applicant's specification, these means are implemented using a code authenticator and code comparator. On page 9, lines 12-14 of applicant's specification, applicant discloses that both the code authenticator and code comparator are software units. As such, it would appear that claim 69 is directed towards an apparatus comprising software per se, which is not statutory. Applicant can overcome this rejection by reciting some form of hardware as a component of the claimed apparatus.

The Examiner notes that the Applicant may have inadvertently omitted such recitation of hardware which was previously recited in the set of claims filed on November 20th,

Allowable Subject Matter

10. Claims 27, 29, 30, 35-40, 48, 50, 51 and 56-61 are allowed.

11. Claims 28, 31-33, 49, 52-54 and 69 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and/or 35 U.S.C. 101, set forth in this Office action.

Art Unit: 2435

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD ZEE whose telephone number is (571)270-1686. The examiner can normally be reached on Monday through Thursday 9:00AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EZ

December 7, 2008

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435